

SENATE BILL No. 136

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-2; IC 3-10-7-7.

Synopsis: Challenges to a candidate's eligibility. Authorizes a challenge to a candidate's eligibility to seek an office to be filed by a registered voter of the jurisdiction conducting the election (rather than a registered voter of the election district the candidate seeks to represent). Requires a member of the election commission or a county or town election board who knows or learns of any facts that question a candidate's eligibility to: (1) file a challenge; and (2) appoint a proxy to participate in the commission's or election board's consideration of the challenge.

Effective: July 1, 2008.

Young R Michael

January 8, 2008, read first time and referred to Committee on Local Government and Elections.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 136

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-1-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission, a county
3 election board, or a town election board shall act if a candidate (or a
4 person acting on behalf of a candidate in accordance with state law) has
5 filed any of the following:

6 (1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.

7 (2) A request for ballot placement in a presidential primary under
8 IC 3-8-3.

9 (3) A petition of nomination or candidate's consent to nomination
10 under IC 3-8-6.

11 (4) A certificate of nomination under IC 3-8-5, IC 3-8-7,
12 IC 3-10-2-15, or IC 3-10-6-12.

13 (5) A certificate of candidate selection under IC 3-13-1 or
14 IC 3-13-2.

15 (6) A declaration of intent to be a write-in candidate under
16 IC 3-8-2-2.5.

17 (7) A contest to the denial of certification under IC 3-8-6-12.

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(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. Except for a filing under the jurisdiction of a town election board, a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.

(c) Except as provided in ~~subsection (c)~~, **subsections (e) and (h)**, before the commission or election board acts under this section, a registered voter of the ~~election district that a candidate seeks to represent~~ **jurisdiction conducting an election that includes on the ballot the office for which a candidate has made a filing described in subsection (a)** must file a sworn statement with the election division or election board:

(1) questioning the eligibility of ~~a~~ **the** candidate to seek the office; and

(2) setting forth the facts known to the voter concerning this question.

(d) The eligibility of a write-in candidate or a candidate nominated by a convention, petition, or primary may not be challenged under this section if the commission or board determines that all of the following occurred:

(1) The eligibility of the candidate was challenged under this section before the candidate was nominated.

(2) The commission or board conducted a hearing on the affidavit before the nomination.

(3) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.

(e) Before the commission or election board can consider a contest to the denial of a certification under IC 3-8-6-12, a candidate (or a person acting on behalf of a candidate in accordance with state law) must file a sworn statement with the election division or election board:

(1) stating specifically the basis for the contest; and

(2) setting forth the facts known to the candidate supporting the basis for the contest.

(f) Upon the filing of a sworn statement under subsection (c) or (e), the commission or election board shall determine the validity of the questioned:

(1) declaration of candidacy;

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- (2) declaration of intent to be a write-in candidate;
- (3) request for ballot placement under IC 3-8-3;
- (4) petition of nomination;
- (5) certificate of nomination;
- (6) certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8; or
- (7) denial of a certification under IC 3-8-6-12.

(g) The commission or election board shall deny a filing if the commission or election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

(h) If a member of the commission or election board knows or learns of any facts that question the eligibility of a candidate who has made a filing described in subsection (a) with the election division, county election board, county voter registration office, or circuit court clerk, the member shall:

- (1) file a sworn statement described in subsection (c) with the commission or the election board; and**
- (2) appoint a proxy under IC 3-6-4.1-8, IC 3-6-5-4.5, or IC 3-10-7-7 to participate in the commission's or election board's consideration of the member's challenge under this subsection.**

SECTION 2. IC 3-10-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) A town election board consisting of three (3) members is established in each town except a town that:

- (1) has entered into an agreement with the county election board under section 4 of this chapter;
- (2) is located in a county having a consolidated city; or
- (3) has a population of less than five hundred (500) and has not adopted and filed a resolution under section 5.5 of this chapter.

(b) The town election board consists of the following three (3) members:

- (1) The town chairman of each of the major political parties appointed under IC 3-8-5-3.
- (2) The town clerk-treasurer.

(c) This subsection applies to a member of a town election board who is required to appoint a proxy under IC 3-8-1-2(h)(2). A member shall appoint an individual to serve as a proxy of record in the member's place as a member of the town election board for the purpose of acting on a challenge filed under IC 3-8-1-2(h) by

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1 filing a written instrument appointing the proxy of record with the
2 circuit court clerk. The proxy of record has the same authority to
3 act and vote on all matters pertaining to the challenge as does the
4 member. The member may revoke the authority of the proxy of
5 record at any time and designate in writing another individual to
6 serve as an alternate proxy. The authority of the proxy of record
7 under this subsection expires after the town election board has
8 acted on the challenge under IC 3-8-1-2.

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